

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-886786-D2 AND ALL
OTHER SEAMAN DOCUMENTS

Issued to: Herman St. Clair

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1535

Herman St. Clair

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 25 November 1964, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for twelve months upon finding him guilty of misconduct. The offenses alleged in four specifications were proved by evidence that while serving as an oiler on board the United States SS EXPRESS BALTIMORE under authority of the document above described, on 31 October, 1 November and 3 November 1964, Appellant failed, without permission, to report at 0800 to perform his duties; and on 2 November 1964, Appellant failed, without permission, to perform his duties at 1300.

Since Appellant was not present at the hearing on 19 November 1964, the hearing was conducted in absentia after the Examiner entered not guilty pleas to the specifications on behalf of Appellant.

Appellant was properly logged for each offense. These entries in the Official Logbook were introduced in evidence. No witnesses testified.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and four specifications had been proved, and entered the above order of suspension.

Since 1957, Appellant has been found guilty of failure to perform duties on three occasions, failure to join two vessels, and desertion from another.

On appeal, various excuses are offered for Appellant's failure to perform duties on three of the dates alleged and he states that he did work on the other day. Appellant also states that the Investigating Officer at the hearing did not conduct the investigation of the alleged offenses, the hearing was conducted while Appellant was waiting for the Investigating Officer in his office, and Appellant wants an opportunity to explain his conduct to an Examiner.

OPINION

The entries in the Official Logbook constitute prima facie evidence that Appellant was guilty of the offenses alleged.

Appellant did not contact either the Examiner or the Investigating Officer during the six-day interval between the date of the hearing and when the Examiner's decision was rendered. This refutes the claim that Appellant was present on the date set for the hearing. Therefore, Appellant has forfeited the opportunity to appear at a hearing in order to explain his conduct. The other contentions raised on appeal are totally unsupported in the record.

The suspension for twelve months is not considered to be excessive in view of the cumulative effect of the present offenses together with Appellant's prior record of similar offenses in the respect that the ships on which Appellant was serving were deprived of his services.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 25 November 1964, is AFFIRMED.

E. J. ROLAND
Admiral U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 27th day of December 1965.

INDEX

ABSENCE FROM DUTIES

FAILURE TO PERFORM DUTIES

absence from

offense of

HEARING

absence from

LOG ENTRIES

prima facie case

OFFENSES

cumulative

ORDER OF EXAMINER

cumulative offenses, effect of

prior probationary suspension included

REVOCATION OR SUSPENSION

cumulative offenses as justifying